IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 11228 of 1998

Between:

Dindu Venkatapathy, s/o Narasaiah, aged about 80 years, C/o Sri Venkateswara Rice Mill, Chakalakonda village, Vinjamur Mandal, Nellore District.

..... PETITIONER

AND

1. The Chief Engineer/Electricity, A.P.S.E.B., Nellore Zone, Vidyut Bhavan, Nellore-4.

2. The Superintending Engineer, Assessments, Kadapa, Kadapa District.

3. The Assistant Divisional Engineer, C & O, Udayagiri Mandal, Sub-Division, APSEB, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in issuing the impugned order dt.31.03.1998 in Appeal No.135/97- NLR, partly confirming the final assessment order proceedings No.591/97dt.14.11.1997 of the 2nd respondent initiated pursuant to the Provisional Assessment in Lr.No.1130, dt.16.10.1997 of the 3rd respondent as arbitrary, illegal and against the principles of natural justice and consequently direct the respondents not to take coercive steps pursuant to the above proceedings.

Counsel for the Petitioner: MR.P.PRABHAKAR RAO

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard the learned counsel for the petitioner and Smt.M.Vinobha Devi, the learned Standing Counsel appearing for the respondents.

The petitioner, who is running rice mill, seeks to assail the impugned order of final assessment passed on 14.11.1997 by the second respondent as confirmed in appeal by the first respondent as per orders dated 31.03.1998.

The case of the petitioner in brief is that having regard to the nature of the allegations made, there was no proper enquiry.

However by taking into consideration that there has been some tampering of the meter boxes and the finding as arrived at by both the parties, the assessment as now being made cannot said to be perverse. Therefore, this Court cannot go into the same under Article 226 of the Constitution of India.

However, by taking into consideration the fact that the inspection was conducted as long back as on 08.10.1997 and the petitioner has already deposited a sum of Rs.1,03,908/- out of the final assessment viz., Rs.1,59,590/-, the writ petition is allowed in part reducing the assessed amount to the extent of the amount which has already been paid by the petitioner. No costs.

09.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Ninth Day of December, Two Thousand and Four.

To

1. The Chief Engineer/Electricity, A.P.S.E.B., Nellore Zone, Vidyut Bhavan, Nellore-4.
2. The Superintending Engineer, Assessments, Kadapa, Kadapa District.
3. The Assistant Divisional Engineer, C & O, Udayagiri Mandal, Sub-Division, APSEB, Nellore District.
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